



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

October 11, 2012

BY OVERNIGHT DELIVERY

Empire Transit Mix, Inc.
430 Maspeth Avenue
Brooklyn, New York, 11211
Attention: Rocco Tomassetti, President

Re: Newtown Creek Superfund Site, Kings County and Queens County, New York
Request for Information Pursuant to the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675

Dear Mr. Tomassetti:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release and threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). More information about CERCLA, including a copy of the Superfund law, may be found at www.epa.gov/superfund.

EPA has documented the release and threatened release of hazardous substances into the environment at the Newtown Creek Superfund Site ("Site"). The Site includes a body of water located in Kings County and Queens County in the City of New York and the State of New York. Newtown Creek is a tidal arm of the New York-New Jersey Harbor Estuary that forms the northwestern-most border between the New York City boroughs of Brooklyn and Queens. It is a tributary of the East River and includes Newtown Creek proper and its five branches (or tributaries) which are known, respectively, as Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills, along an approximately 3.8-mile reach. References in this letter to "Newtown Creek" are meant to include Newtown Creek proper and its tributaries.

In response to the release and threatened release of hazardous substances into the environment at the Site, EPA has spent public funds and anticipates spending additional public funds. These actions have been and will be taken by EPA pursuant to CERCLA.

The Site has been listed pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, on the national priorities list of releases and threatened releases of hazardous substances, based upon the relative risk or danger to public health or welfare or the environment, for the purpose of taking action pursuant to CERCLA at such sites. Newtown Creek was listed pursuant to EPA rulemaking by publication in the *Federal Register*, on September 29, 2010. A remedial investigation and

feasibility study at the Site is currently being undertaken, under EPA oversight, by a group of potentially responsible parties pursuant to an administrative settlement agreement and order on consent. The remedial investigation focuses on a Study Area which includes the sediments and the waters of Newtown Creek.

Historically, Newtown Creek drained the uplands of western Long Island and flowed through wetlands and marshes. However, due to heavy industrial development and governmental activities dating from the 1800's, formerly wet areas have been filled, Newtown Creek has been channelized, and its banks have been stabilized with bulkheads and rip rap.

The Newtown Creek area of Brooklyn and Queens has a history of extensive industrial development stretching back to the 1800s. By the second half of the nineteenth century, the area surrounding and adjacent to Newtown Creek had become highly industrialized. This development resulted in major reworking of the Creek banks and channel for drainage, municipal discharges, and navigation purposes. Hazardous substances discharged by industrial, municipal, and other sources over the years ended up in the Creek. Currently the predominant land use around Newtown Creek includes industrial, manufacturing, warehousing, transportation, municipal infrastructure, and utility facilities. Residential development is planned for the areas near the mouth of the Creek on both the Brooklyn and Queens sides.

The Site includes contaminated sediments for which there are numerous possible sources. Sampling events have shown the sediments in the Creek to be contaminated with a variety of hazardous substances which traverse almost the entire length of the Creek, and which include a wide variety of metals, pesticides, polycyclic aromatic hydrocarbons, phthalates, polychlorinated biphenyls and volatile organic contaminants.

As part of its investigation of potential sources of contamination to Newtown Creek, EPA is seeking information regarding entities which operated in the vicinity of Newtown Creek. Empire Transit Mix Inc. is receiving this letter because EPA believes that the Company currently operates, and that Maspeth Avenue Plant Inc., an affiliate of the Company, formerly owned a ready-mix concrete plant at a 1.8-acre facility located at 430 Maspeth Avenue in Brooklyn, New York with frontage on both Newtown Creek proper and the English Kills tributary of Newtown Creek, and that hazardous substances from that facility may have been discharged or released into Newtown Creek. Please note that EPA's investigation of the sources of contamination to Newtown Creek is expected to occur in phases. Thus, as EPA obtains information concerning the Site, the Agency may seek further information from your Company about its ownership or operation of the Company's Facility.

INFORMATION REQUEST

This letter seeks your cooperation in providing information and documents relating to the Site. We encourage you to give this letter your immediate attention. A complete and truthful response to the attached Request for Information should be submitted to EPA within 45 days of your receipt of this letter.

Under Section 104(e) of CERCLA, EPA has broad information gathering authority which allows the Agency to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant or other waste materials at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the enclosed Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

It is possible that some of the information that EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included with the enclosed Request for Information, including the requirement of supporting your claim of confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by the Request for Information, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520.

Your response to this Request for Information (in hard copy and pdf) should be sent to:

Michael A. Mintzer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866
mintzer.michael@epa.gov

with a copy (in pdf only) to:

Caroline Kwan
Remedial Project Manager
New York Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
290 Broadway, 20th Floor
New York, NY 10007-1866
kwan.caroline@epa.gov

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, you may call Mr. Mintzer at (212) 637-3168.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



Nicoletta DiForte
Senior Enforcement Policy Advisor
Emergency and Remedial Response Division

Attachments

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question.
2. Identify each answer with the number of the question to which it is addressed.
3. Please provide one hard copy as well as one pdf copy (on diskette) of your response and documents to Mr. Mintzer, and one pdf copy (on diskette) to Ms. Kwan. Please see Direction number 15, below with respect to any documents that the Company may assert are entitled to confidential treatment.
4. For each document produced in response to this Request for Information, indicate on the document, or in some other clear manner, the question to which it applies.
5. In preparing your response to each question, consult with all present and former employees and agents of the Company whom you have reason to believe may be familiar with the matter to which the question pertains.
6. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
7. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
8. If you have reason to believe that an individual other than one employed by the Company, as the term is defined below, may be able to provide additional details or documentation in response to any question, identify that person.
9. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
10. If anything is omitted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the omission.
11. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.
12. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.
13. If a response to any question is answered completely by a response to another question, or a request for a document has been addressed by a separate production, you may cross

reference the responses so that you do not need to provide a duplicate response or duplicate documents.

14. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential business information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. Section 2.203(b).
15. If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim to be confidential, you must separately address the following points:
 - a. the portions of the information which are alleged to be entitled to confidential treatment;
 - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. measures taken by you to guard against the undesired disclosure of the information to others;
 - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope. For documents submitted in pdf on diskette, please send separate diskettes for confidential information.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information entitled to confidential treatment will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. As used herein, the term "Newtown Creek" shall refer to Newtown Creek, and shall include its five branches or tributaries, respectively Dutch Kills, Maspeth Creek, Whale Creek, East Branch and English Kills.
2. As used herein, the term "Site" shall refer to Newtown Creek and any areas that have been a source of contamination to Newtown Creek, or are places where releases of such contamination to Newtown Creek have come to be located.
3. As used herein, the term "hazardous substance" shall have the meaning set forth in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA)) are set forth at 40 CFR Part 302.
4. As used herein, the terms "hazardous waste," "disposal" and "storage" shall have the meanings set forth in Sections 1004(3), (5) and (33) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6903(3), (5) and (33), respectively.
5. As used herein, the term "industrial waste" shall mean any solid, liquid or sludge or any mixture thereof which possesses any of the following characteristics:
 - a. it contains one or more "hazardous substances" (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product which could be reused after rehabilitation; or
 - l. it is any material which you have reason to believe would be toxic if ingested, inhaled or placed in contact with your skin.
6. As used herein, the term "release" shall have the meaning set forth in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
7. As used herein, the term "Company" refers to the addressee Empire Transit Mix Inc., and each other entity affiliated (see Definition 8) with the Company, including, if applicable, Maspeth Avenue Plant Inc., that may have owned or operated at the Facility or at any Other Newtown Creek Property (see Definition 9). As the context suggests, the term Company may refer to one or more entities.

8. As used herein, the term "affiliate" or "affiliated" refers to all entities controlling, controlled by or in common control with the Company, and whether currently in existence or no longer in existence.
9. As used herein, the terms:
 - a. "Facility" shall mean the facility located at 430 Maspeth Avenue, Brooklyn, New York (Borough of Brooklyn, Block 02928, Lot 0030) together with the structures, infrastructure and other improvements located thereon; and
 - b. "Other Newtown Creek Property(ies)" shall mean all other properties or facilities, if any, now or formerly owned or operated by the Company within the area extending one-thousand feet from the shoreline of Newtown Creek (including each branch or tributary of Newtown Creek).
10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (*e.g.*, corporation, partnership, business trust, etc.), a brief description of its business and its ultimate parent corporation.
12. Other defined terms:
 - a. As used herein, the term "Facility Plan" means one or more diagrams or depictions of the Facility providing the information requested by the Request for Information.
 - b. As used herein, the term "MSDS" means Material Safety Data Sheet.
13. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA or RCRA or in their implementing regulations, in which case the statutory or regulatory definitions apply.

REQUEST FOR INFORMATION

Section 1.0 Company Information

1. Company Identification. Provide the following information with respect to the Company (see Definition 7).
 - a. The full legal, corporate name and mailing address.
 - b. The state and date of incorporation of the Company, the date of qualification to do business in the State of New York and the Company's agents for service of process in the state of incorporation and the State of New York.
 - c. The identity of the Chief Executive Officer or other presiding officer of the Company.
 - d. If the Company is a successor to any other entity by merger, asset or stock acquisition, change of name or other activity, identify each predecessor and identify the nature of the succession.
 - e. If the Company is a subsidiary or division of another entity, identify each parent entity.
 - f. Identify the inter-Company relationships between Empire Transit Mix Inc. and Maspeth Avenue Plant Inc. and the interest of each such entity at the Facility (see Definition number 9.a for "Facility").
2. Future EPA Communications: If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.

Section 2.0 Company Owner/Operator Information of the Facility and Newtown Creek

3. Company's Relationship to the Facility. Identify the Company's relationship to the Facility, including:
 - a. The Company's ownership and operational interest in the Facility including the corporate identity of the entity that holds or held such interest.
 - b. Dates of acquisition, disposition and operation of the Facility and the identity and relationship, if any, between the Company and the transferor and transferee or operator of the Facility.
 - c. Provide a copy of all deeds evidencing the acquisition or disposition of the Facility and of all leases relating to the operation of the Facility.
4. Operations at the Facility.
 - a. Operating Activities: Please describe the principal business conducted at the Facility, and each other business activity conducted at the Facility. Please address

with specificity the concrete ready mix business conducted at the Facility. If any business activities are no longer engaged in at the Facility, please identify such business activities and the time period that they were conducted. Please indicate on the Facility Plan, the areas that such activities were engaged in at the Facility.

- b. Leasehold arrangements: If the Company is or was not the owner of the Facility, state the nature of the Company's right to operate at the Facility and, if pursuant to lease from the owner, provide a copy of leases during the Company's periods of operations (although the Company may redact any monetary provisions relating to leasehold payments due under the lease).

5. Facility Plan and Historic Maps, Drawings, Surveys and Photographs of the Facility.

- a. Please provide a Facility Plan (see Definition 12.a) showing:
 - i. Buildings and improvements.
 - ii. Floor plans of buildings.
 - iii. Bulkheads, ship loading docks and truck loading facilities.
 - iv. Sanitary and storm sewers.
 - v. Solid waste management units.
 - vi. Below-ground infrastructure including tanks and pipes.
 - vii. Above-ground infrastructure including tanks, spill containment facilities and pipes.
 - viii. Over-water or in-water facilities (e.g., piers, docks, cranes).
 - ix. Discharge facilities including pipes, ditches or other conveyance features.
- b. Please provide such other maps, drawings, surveys (including Sanborn maps) and historic photographs in the Company's possession as provide information relevant to the layout of or operations at the Facility.

6. Historic Depiction of the Facility. Provide such other drawings, maps, photographs and, surveys, including, for example, Sanborn maps of the Facility, in the Company's possession, showing features of the Facility either before or during the time of the Company's ownership or operation that would provide an understanding of the configuration of and operations at the Facility.

7. Ownership of Newtown Creek. At the present time or at any past time, has the Company:

- a. Owned any portion of Newtown Creek or wetlands associated with Newtown Creek?
- b. Asserted control over or exclusive rights to use any area of Newtown Creek or wetlands associated with Newtown Creek, for any purpose including, without limitation, dredging or filling in Newtown Creek or construction, maintenance or repair of any facility located in the waters or the associated wetlands or sediments, including, by way of example, bulkheads, rip rap, pipes, wharfs, piers, docking, loading or unloading facilities, cranes or other over-water facilities?

- c. If the answer to either subparagraph “a” or “b” of this paragraph is yes, please identify the areas owned or controlled, or over which the Company has or had a right to use, provide an explanation of how and from whom the Company acquired such ownership or control, provide a copy of all title documents, leases, permits or other instruments where such right was derived, show the areas on the Facility Plan, and describe all activities conducted pursuant thereto.

8. Operations In Newtown Creek:

- a. Describe all activities at the Facility that were conducted over, on, under, or adjacent to, Newtown Creek. Include in your description whether the activity involved hazardous substances, industrial waste, petroleum or other waste materials and whether any materials were ever discharged, spilled, disposed of, dropped, or otherwise came to be located in Newtown Creek.
- b. Has the Company at any time, constructed or operated any facility in or over the waters or on the sediments of Newtown Creek, including any bulkheads, rip-rap, wharfs, piers, docking, loading or unloading facilities, containment booms, cranes or other on-water or over-water facilities?
- c. Has the Company, or any affiliate, at any time constructed, operated or utilized any facility under the waters or sediments of Newtown Creek, including without limitation pipes, pipelines, or other underwater or under sediment facilities?
- d. If the answer to subparagraph “b” or “c” of this paragraph is yes, please provide details including:
 - i. the facilities constructed or operated, the dates of such construction, replacement or major modification, whether there were discharges into the waters of Newtown Creek associated with construction or maintenance of such facilities, and all permits associated with the construction or operation; and
 - ii. the source of the Company’s authorization to construct or maintain such facilities in Newtown Creek including identification of the operating document (deed, lease, easement, license, permit, etc.) and the identity of the grantor, and provide copies of the relevant deeds, leases, licenses and permits.
- e. Provide a summary of over-water activities conducted at the Facility, including but not limited to, any material loading and unloading operations associated with vessels, materials handling and storage practices, ship berthing and anchoring, ship fueling, cleaning, maintenance, or repair.

9. Outfalls to Newtown Creek: Identify and show on the Facility Plan all current outfalls or discharge points from the Facility to Newtown Creek, and all previous outfalls or discharge points from the Facility into Newtown Creek. Describe with specificity the location of each outfall or discharge point, gallons per day, source of influent, description of effluent and associated permit. For all outfalls that have been removed, provide the

date of installation and the date of removal, and a copy of any internal memorandum or external correspondence or report relating to such outfall or its removal.

10. Fill. With regard to the placement of fill at the Facility:
 - a. Was any fill placed on the Facility property during the initial development or subsequent redevelopment of the Facility? If so, identify on the Facility Plan all areas of the Facility where fill was placed, the lateral extent of the fill and the depth of the fill, the purpose of the placement, and the source and amount of the fill in each area. State whether the fill has ever been characterized, either before placement or thereafter and, if so, provide a copy of the sampling/characterization results.
 - b. Were any portions of the Facility historically part of Newtown Creek or did the Facility formerly include any marshlands or wetlands associated with Newtown Creek? Please depict any such wet areas on the Facility Plan. Please provide your understanding of who filled any such wet areas, the approximate date of such fill, and the lateral extent and depth of such fill, the source of the fill material, the composition of the fill and, if any sampling has ever been done of such filled areas, provide a copy of the sampling results.
11. Facility Drainage Studies. Provide copies of any storm water or drainage studies for the Facility, including data from sampling conducted for the respective Facility on storm water, sheet flow, or surface water runoff. Show all drainage facilities on the Facility Plan.
12. Connections to New York City sewer system:
 - a. State whether the Facility was connected to the New York City sewer during the Company's ownership or operation and the date that the Facility was first connected.
 - b. State whether the Facility ever discharged liquid wastes other than through the New York City sewer system and, if so, provide details on such discharges.
 - c. State whether the Facility participated in the New York City pretreatment program, and whether the Company has ever been classified as a significant industrial user.
 - d. Provide copies of all permits and permit applications for New York City Industrial Wastewater discharge permits.
 - e. Provide a copy of all administrative orders issued to the Company relating to sewer usage.
 - f. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Company's use of the New York City sewer system.
 - g. Provide copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes.

13. Other Newtown Creek Properties. Please identify each Other Newtown Creek Property (see Definition number 9.b for “Other Newtown Creek Property”), if any, currently or formerly owned or operated by the Company (including any affiliate (see Definition 8)), including:
- a. Nature of the Company’s interest in each Other Newtown Creek Property.
 - b. Corporate identity of the entity that holds or held such interest.
 - c. Address, Borough, Block and Tax Lot Identification of each Other Newtown Creek Property.
 - d. The principal business and each other line of business conducted at each Other Newtown Creek Property.
 - e. Provide a copy of all deeds evidencing the acquisition or disposition of the Facility and of all leases relating to the operation of each Other Newtown Creek Facility.
14. Storage and Combustion of Coal. Has the Company stored or combusted coal at the Facility during the time of its ownership or operation? If your answer is yes, please respond to the following requests for information for all periods of time that the Company operated at or owned the Facility:
- a. The purpose for which coal was present at the Facility.
 - b. The annual volume and type or types of coal (i.e. bituminous, anthracite, etc.) handled at the Facility.
 - c. The location and manner of coal storage at the Facility
 - d. Identify all coal storage, shipment and transfer and process locations on the Facility Plan.

Section 3.0 Company’s Operational Activities

15. Company’s Business Operations. Describe the Company’s operations or business activities at the Facility. If the products, processes, operation, or business activity changed over time, please identify each separate operation or activity, the dates when each operation or activity was started and, if applicable, ceased. Please describe the principal business conducted at the Facility and all other business activities conducted at each Facility and specifically address the following activities:
- a. Concrete Batch Plant. Provide a schematic drawing of the concrete batch plant operations at the Facility and list all materials used in concrete production and waste streams generated from the plant and waste disposal methods. Describe raw materials used in the operation and methods and place of storage of materials at the Facility. Describe maintenance and cleaning operations for the plant and identification of cleaning materials and disposal of cleaning wastes.
 - b. Concrete Transport Trucks. Describe the Company’s use of vehicles, including concrete transport trucks at the Facility. Identify: i) the number of trucks used in connection with the Facility; ii) parking or storage operations; iii) truck cleaning

operations including identification of truck cleaning materials such as solvents and method of application of truck cleaning materials, identification of truck cleaning wastes and waste handling and disposal, vehicle maintenance activities including repairs and maintenance, and generation, storage and disposal of waste oil.

16. Vessels. Has the Company utilized barges, tankers or other vessels in any operations on Newtown Creek and, if so, provide details of such operations? Identify products and raw materials transferred to or from vessels, and spill prevention controls utilized by the Company. Identify with specificity all vessel related spills or discharges that may have occurred during the Company's ownership or operation of the Facility.
17. Cleaning of Tanks, Machinery and Equipment. Did the Facility's operations include tank cleaning? If so, describe in detail the Facility's tank cleaning practices during the period of operations, including the number of tanks onsite, the frequency and method of tank cleaning, the volume of tank cleaning waste generated, and the method and location of
18. Chemicals and Other Materials Used, Produced and Generated at the Facility. Identify the compounds and chemicals received, stored and used at the Facility and the purpose that the compounds and chemical were acquired.
 - a. For receipt of materials, please identify all such materials (including petroleum or petroleum products) being specific in identifying such each item including brand name of any chemical or, if generic, the identity and description of such material, the purpose for which it was received and the process in which it was employed. Please provide copies of material safety data sheets ("MSDSs") for each such chemical. Identify the annual volume of receipt of such materials.
 - b. Describe what the Company did with the hazardous wastes, hazardous substances, and industrial wastes that it used, stored, generated, or otherwise handled at the Facility after it was finished with them? Describe in detail how and where the hazardous substances, hazardous wastes, and industrial wastes generated at the Facility. For each disposal location and method, state the nature and quantity or the material disposed on an annual basis.
19. Oil/Water Separators. Identify all oil/water separators at the Facility during the Company's ownership or operation including dates of installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge. Provide a copy of each permit and permit application, influent and effluent sampling results and copies of all submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.
20. Storage Tanks. Identify each fixed above-ground storage tank and each fixed below-ground storage tank that is or was situated on the Facility during the Company's ownership or operation. Provide a copy of all permits relating to the tank and provide a

copy of all Company written manuals or procedures, including manuals that have been superseded by newer manuals or procedures, addressing use and maintenance of such tanks. For each tank, identify:

- a. Date of installation and dates and nature of major modifications.
 - b. Dates of installation and nature of spill detection equipment.
 - c. Dates of installation and description of secondary containment.
 - d. Dates of installation and nature of cathodic protection equipment.
 - e. Description of all tanks and show their location on the Facility Plan.
 - f. The identity of contents that have been stored in any such tank both before (if known) or during the Company's ownership or operation.
 - g. Tank cleaning practices;
 - h. Manner of ultimate disposal of wastes from the tank;
 - i. Identify all spills that occurred during the Company's ownership of the Facility.
 - j. Copies of reports or manuals in the Company's possession relating to the storage tanks and the foregoing questions.
21. Identify and depict on the Facility Plan, each pipeline serving the Facility that is or was situated on the Facility property (either above- or below-ground) during the Company's ownership or operation.

Section 4.0 Civil Litigation, Administrative Enforcement and Criminal Matters

22. Civil Litigation, Administrative Enforcement and Criminal Matters:

- a. Has the Company been a party to any litigation or involved in any other claim where an allegation by or against the Company included environmental contamination of Newtown Creek or contamination of any upland property located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, identify such litigation or claim, briefly describe the allegation by or against the Company, the status of the litigation or claim, and provide a copy of the pleadings and any settlement agreement or court order.
- b. Has the Company been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from Facility or at or from any other upland facility located within 1,000 feet of Newtown Creek (whether the claim was based on the Company's alleged ownership, operation, transporter status, or arranger relationship to the facility or some other basis)? If yes, state the Company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.
- c. Has the Company or an employee, affiliate, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at either Facility? If so,

describe the disposition of such accusation and provide details on such accusation.

Section 5.0 Facility Releases, Investigations and Remediation

23. Releases at or from the Facility. Has the Company ever provided notice to or made a report to any EPA or any New York State or New York City agency concerning a spill or release involving the Facility or involving Newtown Creek? If so, describe each spill or release and provide copies of all communications between the Company and federal, state or local regulatory agency.
24. Soil Removal Actions. Has any contaminated soil ever been excavated or removed from the Facility? If yes, identify the reason for such soil action, the dates of such action, the location at the Facility and whether the soil removal was performed under the oversight of EPA, New York State Department of Environmental Conservation ("NYSDEC") or New York City Department of Environmental Protection ("NYCDEP") or any other regulatory agency. Provide copies of all reports containing a description of the soil excavation and all data and analyses and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
25. Groundwater Action. Has the Company treated, pumped, or taken any kind of response action on groundwater under the Facility? If yes, identify the reason for such groundwater action, the dates of such action, the location at the Facility, and whether the groundwater action was performed under the oversight of any EPA, NYSDEC or NYCDEP or any other regulatory agency. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.
26. Releases into Subsurface units. Was there ever a spill, leak, release or discharge of waste, or process residue, including hazardous substances, pollutants, contaminants, industrial waste, or petroleum, into any subsurface disposal system or floor drain inside or under a building situated at either of the Facility? If yes, provide details of each event and any communication with any federal, state or city regulatory body.
27. Releases to Newtown Creek. Was there ever a spill, leak, release or discharge of a hazardous substance, industrial waste, petroleum or other waste, or material into Newtown Creek from the Facility or from any equipment, structure, or activity occurring on, over, or adjacent to Newtown Creek? If yes, identify such release and provide copies of any documents regarding the nature of the material released, the dates of each such occurrence, the amount and location of such release; and whether there was any action to treat or recover any materials that were the subject of the release. Provide copies of all reports containing a description of the groundwater action and all data and analyses, and copies of any orders or agreements with any regulatory agencies that required or oversaw the work.

28. Environmental Investigations at the Facility. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, hydrology, or air quality on or about either of the Facilities. Provide copies of all data, reports, and other documents that were generated by the Company or any contractor or consultant, or by a federal or state regulatory agency related to the investigations that are described.
29. Monitoring Wells. Identity of all groundwater monitoring wells located on Facility Property, including their location at the Facility and the dates and purpose for they were installed. Provide a copy of groundwater data generated from the monitoring wells and all reports prepared for the Company that utilized such data. Show the location of the monitoring wells on a Facility Plan.
30. Phase I, Phase II, EDR and Other Environmental Investigations. Please provide copies of all environmental investigation reports in the Company's possession relating to the Facility. Include, without limitation, all Phase I and Phase II reports and any Environmental Data Resources study or report.

Section 6.0 Regulatory Information

31. Regulatory Agencies with Jurisdiction Over the Facility. Identify each federal, state and local authority that regulates environmental concerns relating to the ownership or operation at the Facility, the contact point at such agency, the activity regulated and the applicable federal, state and local statute or regulation from which such regulatory authority was derived.
32. Settlements and Administrative Orders. Identify and provide copies of all settlement agreements or administrative orders, between the Company and federal, state or local environmental agencies relating to the Facility.
33. Notices of Violation. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning the Facility related to environmental concerns. Provide copies of all documents associated with each occurrence described.
34. Environmental Permits. Provide a list of all local, state and federal environmental permits which have been applied for or issued to the Company with respect to the Facility for any media, e.g., water (including State Pollutant Discharge Elimination System), New York City sewer, Industrial Pretreatment Program or any other wastewater discharge related governmental authorization or notice), excavation and fill in navigable waters, dredging, tidal wetlands, air, solid waste or hazardous waste, bulk storage, industrial wastewater, etc. under any environmental statute or regulation. Provide a copy of each

federal or state permit held by the Facility, whether currently in force or expired. Provide a copy of all Discharge Monitoring Reports applicable to all Clean Water Act permits.

Section 7.0 Compliance with this Request and Financial Information

35. Persons and Source Materials Consulted in Your Response: Identify all persons, other than counsel, that the Company consulted, and all source materials that the Company reviewed in responding to this request, including, but not limited to, the names of persons consulted, the contact information for such person, and if the person is a current or former employee, the job title and responsibilities for such persons and the dates of employment, and identify which questions the person was consulted about.
36. Persons Having Responsibility for Environmental Matters at the Facility. Identify all individuals who currently have and those who have had responsibility for the Company's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of the Company's wastes). Also provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning the Company's waste management.
37. Financial Information: Provide a copy of annual financial statements for each of the most recent three years for the Company.
38. Insurance and Indemnification:
 - a. Provide a schedule of liability insurance policies that may provide coverage to the Company for environmental liability associated with Newtown Creek.
 - b. Identify each entity that may have a duty to indemnify the Company for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to so indemnify the Company.
 - c. Identify each entity that the Company has agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Company.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION
NEWTOWN CREEK SUPERFUND SITE

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Company's response thereto should become known or available to the Company.

NAME (print or type)

TITLE (print or type)

COMPANY NAME

SIGNATURE

Sworn to before me this _____ day of _____, 2012

Notary Public

My commission expires: _____

[STAMP OR SEAL]